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LifeScan, Inc. and Johnson & Johnson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DIAGNOSTIC SOLUTIONS, INC., a California)
corporation,)

Plaintiff,)

v.)

JOHNSON & JOHNSON, a New Jersey)
corporation; LIFESCAN, INC., a California)
corporation; and DOES 1-100,)

Defendants.)
_____)

CASE NO.

**DEFENDANTS LIFESCAN, INC. AND
JOHNSON & JOHNSON'S NOTICE OF
REMOVAL OF ACTION UNDER 28
U.S.C. § 1441(b)**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441 (b), Defendants
LifeScan, Inc. ("LifeScan") and Johnson & Johnson hereby remove to this Court the state court action
described below.

1. LifeScan and Johnson & Johnson are defendants in a civil action filed on May
10, 2001 in the Superior Court of the State of California for the County of Santa Clara, Case Number
CV798215, entitled *Diagnostic Solutions, Inc. v. Johnson & Johnson; LifeScan, Inc.; and Does 1-*

1 100. A true and correct copy of Plaintiff Diagnostic Solutions, Inc.'s ("DSI") Complaint in the state
2 court action is attached hereto as Exhibit A.

3 2. LifeScan was served with the Summons and Complaint in the state court action
4 on May 11, 2001; therefore, this removal is timely under 28 U.S.C. § 1446(b).

5 3. On June 8, 2001, LifeScan and Johnson & Johnson filed an Answer and
6 Affirmative Defenses to DSI's Complaint in the state court action. A true and correct copy of LifeScan
7 and Johnson & Johnson's Answer and Affirmative Defenses is attached hereto as Exhibit B. DSI's
8 Complaint and LifeScan and Johnson & Johnson's Answer and Affirmative Defenses together
9 constitute all of the process, pleadings and orders to date in the state action described in paragraph 1
10 above.

11 4. This action is properly removed to this Court under 28 U.S.C. § 1446(a)
12 because the state court action is pending in Santa Clara County, California, which lies within this District
13 and Division.

14 5. This Court has original federal question jurisdiction over the sixth and seventh
15 causes of action asserted in DSI's Complaint pursuant to 28 U.S.C. § 1331, and may exercise
16 supplemental jurisdiction over the other causes of action in DSI's Complaint pursuant to 28 U.S.C. §
17 1367.

18 6. The sixth cause of action in DSI's Complaint purports to state a claim for
19 alleged violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962. This
20 Court has original jurisdiction over claims for violation of the cited law.

21 7. The seventh cause of action in DSI's Complaint purports to state a claim for an
22 alleged conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §
23 1962. This Court has original jurisdiction over claims for violation of the cited law.

24 8. This Court may exercise supplemental jurisdiction over the other six state law
25 causes of action alleged in DSI's Complaint pursuant to 28 U.S.C. § 1367 because those claims are so
26 related to the sixth and seventh causes of action in DSI's Complaint that they form part of the same
27
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1 case or controversy under Article III of the United States Constitution. Each of the eight causes of
2 action in DSI's Complaint are based on the same set of operative facts and allegations.

3
4 DATED: June 8, 2001

5 QUINN EMANUEL URQUHART
6 OLIVER & HEDGES, LLP

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8 By _____
9 David Eiseman
10 Attorneys for Defendants
11 LifeScan, Inc. and Johnson & Johnson
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